

SERVED: October 29, 2007

NTSB Order No. EA-5331

UNITED STATES OF AMERICA
NATIONAL TRANSPORTATION SAFETY BOARD
WASHINGTON, D.C.

Issued under delegated authority (49 C.F.R. 800.24)
on the 29th day of October, 2007

_____)	
ROBERT A. STURGELL,)	
Acting Administrator,)	
Federal Aviation Administration,)	
)	
Complainant,)	
)	Docket SE-17931
v.)	
)	
JEFFERY MICHAEL SMITH,)	
)	
Respondent.)	
_____)	

ORDER DISMISSING APPEAL

The Administrator has moved to dismiss the appeal that respondent has filed in this proceeding, because respondent did not perfect his appeal by filing a timely appeal brief, as Section 821.48(a) of the Board's Rules of Practice requires (49 C.F.R. Part 821).¹ The Administrator's motion, to which

¹ Section 821.48(a) provides as follows:

§ 821.48(a) **Briefs and oral argument.**

(a) Appeal brief....each appeal must be perfected, within 50 days after the date on which the oral initial decision was rendered, or 30 days after the date on which the written initial decision or appealable order was served, by the filing, and simultaneous service on the other parties, of a brief in support of the appeal. An appeal may be dismissed by the Board, either on its own initiative or on motion of another party, where a party who has filed a notice of appeal fails to perfect the appeal by filing a timely appeal brief.

respondent filed no responsive pleading, is granted.

The record establishes that respondent, through counsel, filed a timely notice of appeal from the law judge's June 28, 2007 oral initial decision.² Respondent, however, did not file an appeal brief by August 17, 2007, which was the deadline established by the application of § 821.48(a). We note that, as of the service date of this order, we have not received an appeal brief from respondent.

Without good cause to excuse a failure to file a timely appeal brief, or a request to file one out of time before it is due, a party's appeal will be dismissed. Administrator v. Hooper, 6 NTSB 559 (1988).

ACCORDINGLY, IT IS ORDERED THAT:

1. The Administrator's motion to dismiss is granted; and
2. Respondent's appeal is dismissed.

Gary L. Halbert
General Counsel

² The law judge affirmed an order of the Administrator revoking on an emergency basis respondent's mechanic certificate with airframe and powerplant ratings for violation of section 65.23(b) of the Federal Aviation Regulations. Respondent waived the expedited procedures normally applicable to emergency revocation proceedings under the Board's rules.